

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #12	CCRB Case #: 201900666	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/20/2019 2:41 AM	Location of Incident: [REDACTED]	Precinct: 25	18 Mo. SOL 7/20/2020	EO SOL 3/6/2021	
Date/Time CV Reported Wed, 01/23/2019 9:37 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/23/2019 9:37 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Karanveer Balagad	15738	957352	025 PCT
2. POM Andrew Plaza	20827	959902	025 PCT
3. POM Edwin Lau	06902	950730	025 PCT
4. POM Michael Mendez	07126	953101	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edwin Lau	Abuse: Police Officer Edwin Lau entered § 87(2)(b) in Manhattan.	[REDACTED]
B.POM Michael Mendez	Abuse: Police Officer Michael Mendez entered § 87(2)(b) in Manhattan.	[REDACTED]
C.POM Andrew Plaza	Abuse: Police Officer Andrew Plaza entered § 87(2)(b) in Manhattan.	[REDACTED]
D.POM Karanveer Balagad	Abuse: Police Officer Karanveer Balagad entered § 87(2)(b) in Manhattan.	[REDACTED]
E.POM Edwin Lau	Abuse: Police Officer Edwin Lau searched § 87(2)(b) in Manhattan.	[REDACTED]
F.POM Michael Mendez	Abuse: Police Officer Michael Mendez searched § 87(2)(b) in Manhattan.	[REDACTED]
G.POM Andrew Plaza	Abuse: Police Officer Andrew Plaza searched § 87(2)(b) in Manhattan.	[REDACTED]
H.POM Karanveer Balagad	Abuse: Police Officer Karanveer Balagad searched § 87(2)(b) in Manhattan.	[REDACTED]
I.POM Edwin Lau	Abuse: Police Officer Edwin Lau searched § 87(2)(b) in Manhattan.	[REDACTED]
J.POM Edwin Lau	Force: Police Officer Edwin Lau used physical force against § 87(2)(b)	[REDACTED]
K.POM Edwin Lau	Abuse: Police Officer Edwin Lau forcibly removed § 87(2)(b) to the hospital.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

On January 23, 2019, § 87(2)(b) filed this complaint over the phone with the CCRB.

On January 20, 2019 at approximately 2:41AM, Police Officers Edward Lau, Michael Mendez, Andrew Plaza, and Karanveer Balagad, all of the 25<sup>th</sup> Precinct, responded to § 87(2)(b)'s apartment, located at § 87(2)(b) in Manhattan. The officers entered and searched § 87(2)(b)'s apartment (**Allegations A-H- Abuse of Authority:** § 87(2)(g) PO Lau allegedly searched through § 87(2)(b)'s paperwork on her desk and pushed § 87(2)(b) out of her room (**Allegation I- Abuse of Authority:** § 87(2)(g) **Allegation J- Force:** § 87(2)(g) PO Lau made the decision to remove § 87(2)(b) to § 87(2)(b) Hospital for a psychiatric evaluation (**Allegation K- Abuse of Authority:** § 87(2)(g) § 87(2)(b) was not arrested or summonsed as a result of this incident. § 87(4-b), § 87(2)(g)

The investigation obtained one BWC file stemming from this incident from PO Balagad. The footage solely captures PO Balagad accompanying § 87(2)(b) in the ambulance to the hospital (Board Review 01). There is no other video footage capturing this incident.

### Findings and Recommendations

**Allegation A-Abuse of Authority: Police Officer Edwin Lau entered**

§ 87(2)(b) in Manhattan.

**Allegation B-Abuse of Authority: Police Officer Michael Mendez entered**

§ 87(2)(b) in Manhattan.

**Allegation C-Abuse of Authority: Police Officer Andrew Plaza entered**

§ 87(2)(b) in Manhattan.

**Allegation D-Abuse of Authority: Police Officer Karanveer Balagad entered**

§ 87(2)(b) in Manhattan.

**Allegation E-Abuse of Authority: Police Officer Edwin Lau searched**

§ 87(2)(b) in Manhattan.

**Allegation F-Abuse of Authority: Police Officer Michael Mendez searched**

§ 87(2)(b) in Manhattan.

**Allegation G-Abuse of Authority: Police Officer Andrew Plaza searched** § 87(2)(b)

in Manhattan.

**Allegation H-Abuse of Authority: Police Officer Karanveer Balagad searched**

§ 87(2)(b) in Manhattan.

**Allegation K: Abuse of Authority: Police Officer Edwin Lau forcibly removed § 87(2)(b) to the hospital.**

In her verified statement to the CCRB, § 87(2)(b) stated that before she went to bed on the night of January 19, 2019, she took a sleeping pill to help her sleep (Board Review 02). § 87(2)(b) bought the pill over the counter at a pharmacy. When asked for more information about the pill, § 87(2)(b) stated that the pill is not really a sleeping pill but rather a pill she takes for nutrition. § 87(2)(b) never called anyone and stated that she was feeling suicidal. At approximately 2:40AM, § 87(2)(b) awoke to loud banging at the door. After approximately five minutes, § 87(2)(b) opened the door and saw seven to eight officers and two EMTs outside her door. One of the officers told § 87(2)(b) to open the door. § 87(2)(b) unlocked the door from the inside and turned the doorknob. Before § 87(2)(b) could open the door, the officers pushed their way into the apartment. The EMTs told § 87(2)(b) that they received a 911 call that she was going to kill herself. § 87(2)(b) denied that she was suicidal. While speaking to the EMTs, § 87(2)(b) noticed officers going into other rooms in her

apartment. § 87(2)(b) then went to § 87(2)(b) Hospital, where she said her blood pressure was taken but she was not admitted.

Event #§ 87(2)(b) stated that on 1:56AM on January 20, 2019, a 911 operator received a call from 311; the 311 operator informed the 911 operator that the caller had hung up the phone before 911 got on the line (Board Review 03). The caller, identified by the investigation as § 87(2)(b) stated that she wanted to commit suicide because she was § 87(2)(b) ten years ago and she “lost the case.” The 311 operator was only able to provide a phone number for the complainant and did not have a name or address. At 1:59AM, Supervisor Police Communications Technician (SPCT) Cruz began the process of reaching out to Verizon and T-Mobile in attempts to ascertain the name and address of the caller. At 2:37AM, SPCT Cruz obtained the name § 87(2)(b) and the address § 87(2)(b) and at 2:40AM, a job was created and officers were dispatched to § 87(2)(b)'s apartment.

In his interview at the CCRB, PO Lau stated that before he arrived at § 87(2)(b)'s apartment, he was informed that she had stated she was suicidal because of a § 87(2)(b) ten years ago where she “lost the case” (Board Review 04). PO Lau, PO Mendez, PO Plaza, and PO Balagad knocked on § 87(2)(b)'s door. EMTs were also present. After approximately ten minutes of knocking, PO Lau called ESU to the location. However, before ESU arrived, § 87(2)(b) opened the door. PO Lau then told ESU not to come. When § 87(2)(b) opened the door, PO Lau asked her why it took so long for her to open the door. § 87(2)(b) replied that she had taken sleeping pills. At this point, PO Lau made the decision to remove § 87(2)(b) to the hospital because of the suicidal statements that § 87(2)(b) made in the 911 call and the fact that she told them explicitly that she had taken sleeping pills. The officers and EMTs entered the apartment. PO Lau and PO Mendez then went into § 87(2)(b)'s room, kitchen, and living room to conduct a sweep for any other people in the apartment or any visible weapons that could pose a danger to § 87(2)(b) or to the officers. PO Lau did not find any people or weapons in the apartment. PO Lau then spoke to § 87(2)(b) for twenty to thirty minutes to convince her to go to the hospital. § 87(2)(b) was never handcuffed because she was cooperative and non-violent. § 87(2)(b) eventually agreed to go to the hospital.

Officers may conduct a warrantless entry under the emergency doctrine only if the following three conditions are met: they must have reasonable grounds to believe that there is an emergency at hand and that there is an immediate need for their assistance for the protection of life or property, they must have reasonable basis to associate the emergency with the area or place to be searched, and the officers must not be primarily motivated by intent to arrest and seize evidence. People v Greenleaf, 22 A.D. 2d 838 (Board Review 05).

The requirement that the search must not be primarily motivated by intent to arrest or seize evidence, but this requirement has been questioned by the US Supreme Court in Brigham City v Stuart, 547 U.S. 398 (2006). However, the New York State Court of Appeals has not ruled upon whether to retain a subjective assessment of the officers' motivation as it pertains to the emergency exception. People v. Doll, 21 N.Y.3d 665 (2012) (Board Review 06).

In People v Eckhardt, 305 A.D. 2d 860 (2003), the Court ruled that multiple warrantless entries and searches of a civilian's home were permissible because the officers were informed by the civilian's daughter that the civilian was suicidal. Therefore, the “officers' entries into and searches of the residence were justified as a response to an emergency, namely to locate [the suicidal civilian] and possibly render aid to her. Up to this point, their actions were not motivated

by an intent to arrest or seize evidence, but out of concern for the health and safety of [the suicidal civilian].” The Court also ruled that the searches were permissible because “the police had no reasonable basis to believe that a crime occurred and, therefore, no basis upon, which to apply for a search warrant” (Board Review 07).

Patrol Guide Procedure 221-13 defines an emotionally disturbed person as someone who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner likely to result in a serious injury to themselves or others. In cases where the EDP is unarmed, non-violent, and is willing to leave voluntarily, the EDP may be taken into custody without the specific direction of a supervisor (Board Review 08).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

**Allegation I-Abuse of Authority: Police Officer Edwin Lau searched**

§ 87(2)(b) **in Manhattan.**

**Allegation J: Force- Police Officer Edwin Lau used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that after she saw officers go into her room, she went to her room and saw PO Lau rifling through paperwork on her desk. PO Lau was the only officer in § 87(2)(b)'s room. § 87(2)(b) asked PO Lau what he was doing in her room, told him that she wanted privacy, and stated that she did not want to go to the hospital. PO Lau grabbed the front of § 87(2)(b)'s nightgown and pushed her out of the room.

PO Lau denied ever rifling through any paperwork on § 87(2)(b)'s desk. PO Lau stated that after § 87(2)(b) changed, she gave him and PO Mendez some paperwork, which PO Lau believed to be court paperwork. PO Lau did not grab § 87(2)(b)'s nightgown and push her out the room. PO Lau denied making any physical contact with § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been a party to three CCRB complaints and has been named a victim in five allegations.
  - § 87(2)(b)
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- Police Officer Edwin Lau has been a member of service for eight years and has been a subject in four CCRB complaints and fourteen allegations, of which one has been substantiated.
  - CCRB 201810824 involved a substantiated allegation of physical force against PO Lau; the Board recommended Command Discipline B; the NYPD disposition is pending.
  - § 87(2)(g)
- Police Officer Michael Mendez has been a member of service for seven years and has been a subject in five CCRB complaints and eight allegations, of which one has been substantiated.
  - CCRB 201308284 involved a substantiated allegation of a retaliatory summons against PO Mendez; the Board recommended Formalized Training and the NYPD imposed Instructions.
  - § 87(2)(g)
- Police Officer Karanveer Balagad has been a member of service for four years and has not been a subject in any closed CCRB complaints.

- Police Officer Andrew Plaza has been a member of service for three years and has not been a subject in any closed CCRB complaints.

**Mediation, Criminal, and Civil Histories**

- This case was not suitable for mediation.
- As of July 12, 2019, the New York City Office of the Comptroller has no record of a notice of claim filed in regards to this incident (Board Review 10).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have a history of convictions in New York.

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer: \_\_\_\_\_

Signature	Print Title & Name	Date
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